

# EXHIBIT A

**From:** [Charles B. Bergin](#)  
**To:** [Cryan, Michael S.](#)  
**Cc:** [Courtney E. Scott](#); [Feighery, Timothy J.](#); [Rotstein, Jason](#)  
**Subject:** Re: Malcomines/Tiberius - Designation of Documents Pursuant to Subpoena  
**Attachments:** [pastedImagebase640.png](#)

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Michael,

We would like to meet and confer regarding the designations and other issues. Please advise as to your availability on Tuesday April 28 or Wednesday April 29,

Ben

**Charles Ben Bergin** | Associate | Tressler LLP  
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**From:** Cryan, Michael S. <Michael.Cryan@arentfox.com>  
**Sent:** Friday, April 24, 2020 4:00 PM  
**To:** Charles B. Bergin <CBergin@tresslerllp.com>  
**Cc:** Courtney E. Scott <cscott@tresslerllp.com>; Feighery, Timothy J. <Timothy.Feighery@arentfox.com>; Rotstein, Jason <Jason.Rotstein@arentfox.com>  
**Subject:** RE: Malcomines/Tiberius - Designation of Documents Pursuant to Subpoena

Ben, we have your email. By its terms, the Court's Opinion & Order, dated March 6, 2020 (ECF No. 32, the "Order") restricted production to transactions between certain entities and within the date parameters authorized by the Court.

Your understanding of this is clear from your previous message: "We issued subpoenas to the New York Banks . . . requesting information for certain entities and within the date parameters authorized by the Court in its order."

All other transaction information is the outside the scope of the limited production authorized by the Order and has been appropriately designated under the Protective Order, dated April 2, 2020 (ECF No. 36, the "Protective Order"). The Objectors appropriately designated the spreadsheets provided by the New York banks in accordance with the plain language of the Protective Order. While we are happy to confer with you further about this, we are puzzled by your email below.

**Michael S. Cryan**  
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**From:** Charles B. Bergin <CBergin@tresslerllp.com>

**Sent:** Tuesday, April 21, 2020 9:54 AM

**To:** Cryan, Michael S. <Michael.Cryan@arentfox.com>

**Cc:** Courtney E. Scott <cscott@tresslerllp.com>

**Subject:** Malcomines/Tiberius - Designation of Documents Pursuant to Subpoena

Counsel:

We are in receipt of your Confidential/Confidential-Attorneys Eyes Only designations for the documents provided by the responding banks in response to Tiberius' subpoenas. You have blanket-designated every single non-WAMT transaction (and every detail therein, including for example the transaction date and amount) as "Attorneys Eyes Only", with one exception that you marked "Confidential".

As you know, the Protective Order requires that a party making such designations simultaneously "specify the Designating Party and provide sufficient information to the receiving party regarding the basis for the designation to enable the non-designating Party to evaluate the basis for such designation and enable counsel for the Parties to meet and confer regarding, and if necessary, to challenge such designation." (Protective Order, Paragraph 3). We requested the same in our email correspondence to you accompanying each production. You are currently in violation of the Protective Order, as your designations include **none** of the mandatory information. We request that you provide immediately: (a) the name of the Designating Party for each Confidential/Confidential-AEO designation; (b) sufficient information to enable Tiberius to evaluate the basis for each designation and to enable a meet-and-confer, and, if necessary, for Tiberius to challenge the designation. Per the terms of the Protective Order, this information should already have been provided. We look forward to receiving this information for **each and every** designation you have made.

Sincerely,

Ben Bergin

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